

### **REMARKS/ARGUMENTS**

Reconsideration is requested. Claims 1-24 are pending. Responsive to the Office Action dated October 9, 2007, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

To expedite allowance, claim 1 has been amended for clarity and to recite a particularly preferred embodiment. Claim 1 now clearly recites contacting, forcing and ablating steps and, in particular, that "the shear member ablates" a "portion of the mammalian barrier membrane by moving over the sheet and the at least one opening." See, for example, page 3, lines 20-28; page 7, lines 10-14; page 17, lines 30-31; and page 19, lines 3-12 of the original disclosure.

In addition, dependent claims 3, 6-10, 12, 16, 18, and 20-24 have been amended for clarity, to correct typographical errors and to provide correct antecedent basis.

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

#### **Objections to the Claims**

Claim 24 was objected to due to an informality. Applicant respectfully submits that claim 24, as amended, is no longer subject to objection and is in condition for allowance.

#### **Claim Rejections under 35 U.S.C. §102**

The subject matter of claims 1-24 was rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,983,136 to Kamen (hereinafter "Kamen").

Kamen, as understood, describes an apparatus for transporting a substance across an outer boundary of a porous medium that includes a platen with at least one orifice and at least one micropenetrator coupled to the platen (see, for example, col. 2, lines 22-26 of Kamen). The micropenetrator is configured to "cleave microfissures" in the porous medium (see, for example, col. 2, lines 25-27 of Kamen). Kamen defines a "microfissure" as a "separation" or "microscopic crack" in the epidermis (see, for example, col. 4, lines 8-15 of Kamen).

Independent claim 1, as amended, recites an “ablating” step wherein a shear member of a shear device ablates a portion of a membrane that has been forced through an opening(s) in a sheet of the shear device. The present disclosure specifically defines “ablation” as “the *removal* of at least one layer of cells” of a membrane (emphasis added, see page 7, lines 6-8 of the original disclosure). Such an “ablating” step is clearly distinguished over the cleaving of microfissures in a membrane via a separation in (and not a removal of) the epidermis as described and taught in Kamen. In other words, Kamen’s separation occurs via a simple penetration or puncturing of the epidermis (see, for example, col. 4, lines 13-15 and col. 5, lines 1-4 of Kamen) and not by ablation. Ablating beneficially enhances transport of molecules (see, for example, page 7, lines 7-16 of the original disclosure) but is simply not described, taught or suggested by Kamen.

Independent claim 1, as amended, also recites that the ablation occurs by the shear member “moving over the sheet and the at least one opening.” Such movement is not described, taught or suggested by Kamen. Rather Kamen teaches a micropenetrator that is part of a platen and not, therefore, capable of movement over the platen (see, for example, the apparatus configurations of FIGs. 1, 6, 7 and 8 of Kamen).

For at least the foregoing reasons, Applicant respectfully submits that independent claim 1 is not anticipated by, or obvious over, Kamen. Since claims 2-14 directly or indirectly depend from and further limit independent claim 1, they are allowable for at least the same reasons.

### **CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicant earnestly solicits early examination on the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, he is urged to contact the undersigned Attorney via telephone at 408-956-4790, or facsimile number 408-956-4404.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any

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overpayment to Deposit Account No. 10-0750 (Docket No. J&J2002USNP/BES (Johnson & Johnson)).

Respectfully submitted,

/Mayumi Maeda/

Dated: April 7, 2008

By: \_\_\_\_\_  
Mayumi Maeda  
Reg. No. 40,075

Johnson & Johnson  
International Patent Law Division  
Attn: Philip Johnson  
P.O. Box 1222  
New Brunswick, NJ 08903  
(408) 956-4066